

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matters of	)	
	)	
Federal-State Joint Board on Universal	)	CC Docket No. 96-45
Service	)	
	)	

**To: Federal-State Joint Board on Universal Service**

**COMMENTS OF CENTURYTEL, INC.**

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CenturyTel, Inc., on behalf of its subsidiaries (collectively, "CenturyTel"), offers its Comments in response to the Public Notice in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

In early 1996, federal law decreed that there should be specific, predictable and sufficient support to preserve and advance universal service.<sup>2</sup> Universal service was defined as making quality services, including advanced telecommunications and information services, available to all Americans at just, reasonable and affordable rates.<sup>3</sup> Lest there be any doubt, it was further decreed that consumers in rural communities should have access to comparable services, including advanced services, at comparable rates, to those available to Americans in non-rural areas.<sup>4</sup> The evolving level of services subscribed to by a substantial majority of

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<sup>1</sup> *Federal-State Joint Board on Universal Service Seeks Comment on Proposals to Modify the Commission's Rules Relating to High-Cost Universal Service Support*, Public Notice, CC Docket No. 96-45, FCC 05J-1 (rel. Aug. 17, 2005) ("Public Notice"). On September 13, 2005, the Commission extended the comment deadline. *Federal-State Joint Board On Universal Service Extends Deadlines For Filing Comments And Reply Comments*, Public Notice, 05J-2 CC Docket No. 96-45, FCC 05J-1 (rel. Sep. 13, 2005).

<sup>2</sup> See 47 U.S.C. §§ 254(b)(5), 254(e).

<sup>3</sup> See *id.* §§ 254(b)(1), (2).

<sup>4</sup> *Id.* § 254 (b)(3).

residential customers were to be incorporated into the definition of supported services, so consumers in rural America would not fall behind in terms of available technology and services.<sup>5</sup>

As 2005 draws to a close, after countless hours spent on proceedings to implement these direct mandates, it remains unclear whether adequate support will be provided to ensure that Americans in rural areas will have access to affordable and evolving technologies that are widely available to consumers in metropolitan markets. The Joint Board seeks comment on four proposals for reforming rural high-cost support mechanisms,<sup>6</sup> each of which seeks to control the size of the fund, but none of which fully consider the long-term impact on rural consumers. It is also doubtful whether any of the proposals meet the mandates of the Communications Act that require universal service support to be specific, sufficient and predictable. Furthermore, none of the proposals before the Joint Board have been modeled in detail to evaluate the potential harm to rural consumers if implemented.

The record in this proceeding is replete with testimony concerning the high-cost characteristics of rural markets and the unique challenges of serving rural consumers.<sup>7</sup> The

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<sup>5</sup> See *id.* § 254(c)(1).

<sup>6</sup> Each are included in the Public Notice: (1) the State Allocation Mechanism (the “SAM”) proposed by Joint Board Member Ray Baum; (2) the Three Stage Package proposed by Joint Board Member Billy Jack Gregg; (3) the Holistically Integrated Package (the “HIP”) proposed by former Joint Board Member Robert Nelson; and (4) the Universal Service Endpoint Reform Plan (the “USERP”) proposed by Joel Shifman, Peter Bluhm and Jeff Pursley of the Joint Board staff.

<sup>7</sup> See Comments of CenturyTel, CC Docket No. 96-45, 04J-2 (filed Oct. 15, 2004) (setting forth numerous characteristics that set rural consumers and study areas apart from their urban counterparts) (citing Rural Task Force, *The Rural Difference*, White Paper 2, Jan. 2000, at 8 (“RTF White Paper 2”)); Comments of CenturyTel, WC Docket No. 01-92, at 2 (filed May 23, 2005) (quoting Statement of Michael J. Copps, Commissioner, Federal Communications Commission, before the Subcommittee on Telecommunications and the Internet of the House Committee on Energy and Commerce, Feb. 26, 2003, at 4) (“we just must do everything we can to make certain that we understand the full impact of our decisions on rural America. If

record also amply demonstrates that competitive eligible telecommunications carriers (“CETCs”) are the source of expanding high-cost funding, not rural incumbent local exchange carriers (“ILECs”).<sup>8</sup> The size of the ILEC high-cost fund is capped, and therefore *cannot* grow. Indeed, the so-called “Rural Growth Factor” has actually worked to cause ILEC high-cost loop support to shrink due in large part to ILEC line loss over the last several years. This is occurring despite the fact that a decrease in lines does not translate into a decrease in costs.<sup>9</sup> According to recent NECA data, the ILEC high-cost loop fund will shrink yet another approximately \$18 million from 2005 to 2006.

In stark contrast, CETC universal service support has grown from approximately \$1.5 million in 2000 to an amount projected to exceed \$800 million in 2005.<sup>10</sup> Exacerbating the problem, CETCs have little or no accountability with regard to how the money is spent. Instead of addressing the discrete problems associated with universal service, the proposals before the Joint Board seek to radically alter the universal service landscape to the detriment of many rural consumers. Rather than bridging the “digital divide” such proposals threaten to widen the gulf between rural and non-rural America.

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we get it wrong on these rural issues, we will consign a lot of Americans to second-class citizenship”).

<sup>8</sup> Comments of CenturyTel to the Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (filed Oct. 15, 2004) (quoting Legg Mason Wood Walker, Inc., Universal Service Financial Analysis, June 25, 2004, at 5 (“*the size of the universal service fund . . . would not be a major concern if it were not for the dramatic growth in CETC payments over the last two years and the potential expansion in the next few years.*” [emphasis in original])); Comments of CenturyTel, Inc., CC Docket No. 96-45 (filed Sep. 21, 2004) (same).

<sup>9</sup> As is recognized in the USERP, “As the competitor gains lines, the rural ILEC’s overall support would not ordinarily decrease, because its loop and switching costs would not decrease.” Public Notice at n.26.

<sup>10</sup> USAC Quarterly Administrative Filing 2005, Fourth Quarter, Appendix HC01 at [www.universalservice.org/overview/filings](http://www.universalservice.org/overview/filings) (based on fourth quarter figures, CETCs will receive \$816.2 million in high-cost support on an annualized basis).

If the Joint Board is serious about meeting the evolving needs of rural consumers, by preserving and advancing universal service, including advanced services, its recommendations must clearly lead to improved service for rural consumers driven by incentives to investment in rural areas. The building blocks must be greater predictability for carriers serving these areas, sufficient support to meet the real costs incurred by these carriers, and specificity in the support of networks – the entire network – necessary for the delivery of next-generation services and technologies to rural communities. Rather than discard the current universal service framework as suggested in these four proposals, focused initiatives aimed at fixing the pressing problems in the universal service framework are required. Specifically:

- The Joint Board should recommend immediate action to expand the contribution base for universal service to include all service providers that use our national telecommunications infrastructure, now and in the future.
- Proposals to move CETC funding to a separate capped fund with its own distribution mechanism deserve consideration as a means to instill greater discipline in the support programs.
- The Joint Board should recommend that universal service support the entire rural network, including when it is used for advanced services. This means ensuring both adequate loop support and support for backhaul capacity to link rural communities to the Internet.
- The Joint Board further should advocate removal of arbitrary cut-offs for support based on total number of lines served and focus solely on the costs of serving rural study areas.
- The Joint Board also should recommend immediate modifications to the Commission's safety-valve mechanism in order to encourage investment in acquired exchanges in the first year following the acquisition.

Through such reforms the Joint Board can encourage meaningful network investment in rural America, and meet the long-term needs of rural communities, while promoting accountability in the administration of the federal high-cost funding mechanisms.

**II. RURAL HIGH-COST FUNDING PROGRAMS SHOULD BE STABILIZED AND IMPROVED SO ALL AMERICANS HAVE ACCESS TO ADVANCED TELECOMMUNICATIONS AND INFORMATION CAPABILITIES NEEDED FOR THE TWENTY-FIRST CENTURY**

The purpose of federal high-cost loop support is to help keep local rates affordable for consumers. The proposals outlined in the Public Notice -- to aggregate study areas, move to a cost model, and allocate support through block grants to states -- all could lead to a smaller federal fund, but would be detrimental to rural consumers. These proposals would generate only illusory savings and create uncertainty that could be devastating to infrastructure investment in rural communities, which is critical to their economic viability. Changes in universal service policy do not change the composition of rural markets, which by their very nature are sparsely populated geographic areas, have high fixed operating costs, and are composed of fewer business customers and consumers with less disposable income than their urban counterparts. The amount of support that is needed to maintain and invest in facilities to serve high-cost study areas would not be reduced by implementing the proposed changes, yet there would be far less specific, predictable support than is available today. It is likely, therefore, that support would be insufficient to meet the needs of consumers in rural areas under these proposals. For these reasons, the proposals fall short of serving the goals of the Communications Act and should not be recommended by the Joint Board.

Especially because of the economic disadvantages rural communities face, they require a communications network capable of supporting the same services available in urban markets, at comparable quality and price. More and more is demanded of carriers operating rural networks, including maintaining and upgrading network facilities to support advanced telecommunications services.<sup>11</sup> As explained by Commissioner Adelstein:

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<sup>11</sup> 47 U.S.C. § 254(b)(2).

History has shown that many rural consumers would be left behind if it weren't for the support made available through our universal service policies. If we take seriously the notion that universal service encompasses an "evolving level" of services and if we are to make real our aspiration that broadband and advanced services be widely available throughout the country, we must ensure that universal service support remains "specific, predictable, and sufficient."<sup>12</sup>

CenturyTel urges the Joint Board to recognize the many good things that have resulted from the nation's universal service policies. Telemedicine, distance learning, increasing availability of high-speed Internet access, advanced telecommunications services, and rural rates for telecommunications services that are comparable to those in urban areas all directly result from a consumer-focused universal service system. The Joint Board should focus its efforts on strengthening the components of universal service with a continued focus on consumers. In this proceeding, CenturyTel outlines a plan for making improvements to the rural high-cost funding mechanisms that will help ensure rural Americans are not left behind, but are given the communications tools to keep pace with economic, political, and educational advancements in our country.

**A. Expanding The Universal Service Contribution Base Will Stabilize the Federal Fund and Enable Other Improvements to Federal Programs**

Modification of the contribution rules is the most pressing aspect of universal service funding today, and must be addressed by the FCC before any other reforms. The Commission has acknowledged that the current funding base is contracting, even while demand for support is expanding.<sup>13</sup> As explained in the HIP, "[t]he dramatic decrease in traditional long

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<sup>12</sup> Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Related to High-Cost Universal Service Support*, CC docket No. 96-45, FCC 04J-2 (rel. Aug. 16, 2004), Statement of Commissioner Jonathan S. Adelstein.

<sup>13</sup> See *Universal Service Monitoring Report*, CC Docket No. 98-202, Table 8.2 (Dec. 23, 2004) (showing a year-over-year decline in interstate switched access minutes, from 2000 (566.9 billion minutes) through 2003 (444.1 billion minutes)).



distance wireline traffic and the increase in the use of voice over Internet protocol (“VoIP”) and the deployment of IP networks has changed the dynamics of USF so irrevocably that immediate attention to the issue is required.”<sup>14</sup> It is critical that the contribution base be expanded and stabilized without further delay, to ensure sufficient funding will be available to fulfill the Communications Act’s mandates.

CenturyTel supports the HIP’s recommendation that “all carriers that utilize the public switched telephone network [(“PSTN”)] be required to contribute to the USF as soon as possible.”<sup>15</sup> It is the Commission’s own policy that universal service should be administered in a competitively-neutral, technology-neutral manner,<sup>16</sup> so distinctions between commercial mobile radio service (“CMRS”) and wireline service, and between digital subscriber line (“DSL”) and cable modem, should be eliminated.<sup>17</sup> Internet protocol- (“IP-”) enabled services and wireless services are very much dependent on the availability of a ubiquitous PSTN. For example, ILEC-provided ADSL-enabled lines (rural and non-rural) make up 36.5% of all high-speed lines,<sup>18</sup> giving more than a third of the nation’s high-speed broadband customers access to next-

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<sup>14</sup> Public Notice at 18.

<sup>15</sup> *Id.*

<sup>16</sup> *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, at ¶ 47 (rel. May 8, 1997) (“competitive neutrality means that universal service support mechanisms and rules neither unfairly advantage nor disadvantage one provider over another, and neither unfairly favor nor disfavor one technology over another”).

<sup>17</sup> Some argue that cable or certain VoIP providers should not be required to contribute unless they also receive support. However, eligibility to receive support never has been a criterion for the obligation to pay into the fund. *See Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, Report and Order, 13 FCC Rcd 5318, ¶ 263 (1997) (requiring interexchange carriers and other providers not eligible to receive universal service support to, nevertheless, contribute to universal service).

<sup>18</sup> *See High-Speed Services for Internet Access: Status as of December 31, 2004*, Industry Analysis Division, Wireline Competition Bureau (July 2005), at Charts 2, 4.

generation services via the PSTN.<sup>19</sup> CMRS providers typically rely on the PSTN for backhaul between different parts of their networks. At a more fundamental level, all interconnected service providers, including CMRS carriers and cable telephony providers, benefit from their ability to deliver calls to and receive calls from PSTN customers. The only equitable, non-discriminatory and technology-neutral rule for contributions that will produce a sufficient base of support is to require *all* service providers who benefit from the ubiquity of the PSTN to begin immediately to contribute to its support.

Any new rules also should be clear and simple to administer. Legal uncertainty about the treatment of VoIP and other new technologies under today's rules has contributed to the declining base of support. The obligation to contribute should be a bright-line rule, and the rule should be enforceable without extensive FCC audits. It should not be based on criteria, such as an interstate-intrastate jurisdictional revenue split, or bandwidth or throughput speeds, that can be manipulated by the contributor.

For this reason, a number of parties have advocated changing from a revenue-based contribution methodology to a numbers-based or connections-based methodology. Contributors would simply count the number of customers connected to a working telephone number, IP address, or the equivalent, and contribute based on a multiple of that number. Such an approach has merit provided: (i) the rules are clear and enforceable; (ii) the obligation is inclusive, encompassing all technologies and all users of the PSTN in a competitively-neutral manner, with no special exceptions based on technology or uncertain regulatory status; and (iii) the obligation evolves with technology, so if, for example, IP addresses replace telephone numbers in the market, the contribution base would be preserved.

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<sup>19</sup> In rural areas, where cable broadband facilities are less prevalent, a much higher percentage of broadband services almost certainly ride over the PSTN.

Assuming the FCC's rules keep pace with technological developments in the market, the approach described above could be simpler and produce a broader base of contributors than the current system. In order to succeed, however, the new rules must not unduly burden residential users or economically disadvantaged communities. Imposing the same charge on every residential and business connection would disproportionately impact rural communities, where business customers are a smaller part of the population, and use a much smaller proportion of the telecommunications and information services, than they do in urban areas.<sup>20</sup> Especially because rural communities have a higher residential-to-business ratio, CenturyTel believes the Joint Board has a duty to recommend a contribution methodology in which business customers pay a reasonable share. Thus, CenturyTel would support a modified numbers-based approach such as that advocated by the Intercarrier Compensation Forum, in which the amount assessed for each high-capacity connection is a multiple of the amount assessed for each lower-capacity connection.<sup>21</sup> In this way, the contribution base can be stabilized without creating a regressive burden on residential customers and rural communities.

**B. Creating a Separate Fund for CETC Support Could Bring Much-Needed Discipline to CETC Funding**

A problem nearly as pressing as that of the contribution methodology, and related to it, is the burgeoning CETC funding burden. USERP makes the case for the kind of dramatic reform of funding for CETCs that CenturyTel long has advocated. CenturyTel has been an industry leader in arguing for meaningful eligibility requirements, and accountability in the use

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<sup>20</sup> Comments of CenturyTel, CC Docket No. 96-45, 04J-2 (filed Oct. 15, 2004) (citing *RTF White Paper 2* at 8).

<sup>21</sup> Regulatory Reform Proposal of the Intercarrier Compensation Forum, at 77-78, October 5, 2005 ("ICF Plan"), attached to Letter from Gary M. Epstein and Richard R. Cameron, Counsel for the ICF, to Marlene Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92, Tab A (filed, Oct. 5, 2004) (setting forth a contribution methodology based on capacity used).

of federal funding, for all ETCs. It is time that policy-makers stop focusing on ways to lower support to the carrier of last resort, *the only class of carriers whose total funding level already is capped*, and demand greater accountability and higher standards for funding CETCs. Every dollar of universal service funding that is provided to CETCs should be justified by a tangible public benefit in the preservation or advancement of universal service. Moreover, as with ILECs, CETCs should receive support only after expenditures are made, rather than funding promises for future investment that may or may not occur. In this way CETCs would be subject to accountability standards comparable to those to which ILECs are subject, promoting the Commission's universal service principal of competitive neutrality.

CenturyTel supports the creation of a separate capped funding mechanism for CETCs to encourage much-needed accountability in the CETC designation process.<sup>22</sup> The current mechanism has allowed CETC designations to proliferate and CETC funding levels to grow exponentially, year over year, with no end in sight.<sup>23</sup> If CETCs drew funding from a separate, capped source, as the ILECs do, the amount of CETC funding would be stabilized, and policy-makers would have greater incentive to limit the number of designated CETCs. “Every dollar given to one ETC would be one dollar that could not be given to another.”<sup>24</sup>

Similarly, CETC funding should be distributed based upon clear, uniform federal rules that ensure the support is used for the purpose for which it is intended, in compliance with Section 254(e) of the Communications Act. The rules should permit distribution of support to

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<sup>22</sup> See, e.g., Public Notice at 27 (the USERP proposes to support wireless CETC's through a separate, capped “Portability Fund”).

<sup>23</sup> See Distribution of HC Support Between Wireless and Wireline CETCs, 1999 Through 4Q2004, available at [http://www.universalservice.org/hc/overview/qtr\\_graphs.asp](http://www.universalservice.org/hc/overview/qtr_graphs.asp).

<sup>24</sup> Public Notice at 4 (excerpt from the SAM).

CETCs only upon a showing of actual costs incurred, as is the case with ILECs today.<sup>25</sup> The rules should require CETCs to demonstrate that their costs justify the support they request, and that they are using the support in the area for which it is designated, to provide services comparable to those provided by the ILEC at rates and service levels comparable to what is required of the ILEC, the carrier-of-last-resort.

These changes will make CETCs accountable to the communities they serve and those who contribute to the fund. Moreover, only under these conditions can rural consumers expect to realize a public benefit from any support program for CETCs.

**C. Rural High-Cost Funding Should Support the *Entire* Network So Rural Communities Have Access to Advanced Broadband Capabilities**

Rural carriers are under relentless pressure to deploy broadband capability to all communities, no matter how small or remote. President Bush has made universal broadband deployment a national priority, stating, “The goal is to be ranked first when it comes to per capita use of broadband technology.”<sup>26</sup> Chairman Martin reaffirmed the Commission’s commitment to creating regulatory incentives for deployment of broadband services throughout the country, calling it “my highest priority as the new chairman of the FCC.”<sup>27</sup> However, in order to have sufficient capital for the substantial investment required, and to be able to deploy broadband at rates consumers can afford, adequate universal service support must be made available. Federal high-cost support is needed for rural *networks* whether used for plain old telephone service

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<sup>25</sup> See generally 47 C.F.R. §§ 36.611-36.631 (rules applicable to ILEC justification of high-cost support); see <http://www.universalservice.org/hc/components/loop.asp> (USAC description of the process for reporting and obtaining high-cost support, including the considerable delay between expenditures and receipt of support).

<sup>26</sup> Jodi Wilgoren and David E. Sanger, *Bush and Kerry Offer Plans for High-Tech Growth*, N.Y. TIMES, June 25, 2004, at A18.

<sup>27</sup> Kevin J. Martin, Editorial, *United States of Broadband*, WALL ST. J., July 7, 2005, at A12.

(“POTS”) or for advanced services. Support should be sufficient to enable deployment of advanced services both where loop costs are high and where high-speed transport is needed for backhaul capacity between rural communities and Internet access points. CenturyTel thus supports the proposals to expand reportable costs to include “all categories of ILEC costs,”<sup>28</sup> including loop, ports, switching and transport, as necessary to deliver advanced telecommunications capability to rural high-cost areas. Such policy changes will spur additional investment and economic growth in rural communities, enabling rural Americans to achieve a higher standard of living through access to broadband.

CenturyTel has particular concern about two categories of costs that are not adequately supported today. First, the Joint Board should recommend changes to the current funding mechanism to fund the transport required to provide advanced telecommunications services. Inter-office transport between CenturyTel’s local exchange area and the nearest tandem-switched point of aggregation may be hundreds of miles. Backhaul between the local exchange area and the nearest urban Internet access point may be even farther.<sup>29</sup> None of this transport cost is covered by federal high-cost support today. If advanced broadband capabilities are to be affordable to rural consumers, as required by the Communications Act, sufficient funding must be provided to cover the cost drivers for rural service, including transport.

Second, CenturyTel believes that, under the current rules, loop costs are not adequately funded. When a CenturyTel local exchange customer purchases POTS over a loop that qualifies for high-cost support today, the support is used to maintain and upgrade that loop regardless of the whether the customer purchases advanced services over that loop. In many

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<sup>28</sup> Public Notice at 10, 21 (Three Stage Package and USERP).

<sup>29</sup> This backhaul infrastructure also is relied upon by ISPs, CMRS providers, VoIP providers, and others sending traffic to or receiving traffic from rural customers.

cases, therefore, the CenturyTel ILEC can offer DSL at an affordable rate to that customer, thanks to federal high-cost loop support. However, if the customer desires a broadband connection via CenturyTel DSL service, but chooses POTS from another provider (for example, a CMRS carrier, or even a VoIP provider on that very broadband connection), the support is no longer available for that loop under today's rules.<sup>30</sup> This means the customer is discouraged from purchasing "naked" DSL service from CenturyTel because the rate would be unaffordable in the absence of high-cost loop support.<sup>31</sup> Obviously, this has the effect of discouraging CenturyTel from deploying DSL to that customer. A secondary effect of this rule is to discourage inter-modal competition – the customer will not purchase DSL from CenturyTel and VoIP from a competitive provider if doing so would make the DSL rate unaffordable. Supporting high-cost loops regardless of how they are used would thus stimulate greater broadband penetration as well as inter-modal competition in rural high-cost areas. The Joint Board should recommend adoption of the proposals to include all network cost components that are vital to providing service to rural communities.

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<sup>30</sup> 47 C.F.R. § 54.307(a)(3).

<sup>31</sup> The Commission already has rejected the notion that a consumer should pay substantially more for DSL and POTS over the same line compared to purchasing only one of the two services using that line. *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities, et al.*, Report an Order and Notice of Proposed Rulemaking, CC Docket Nos. 02-33, 01-337, 95-20, 98-10 and WC Docket Nos. 04-242, 05-271, FCC 05-150, at ¶ 143 (rel. Sep. 23, 2005) ("It would cause a consumer who buys the two services over the same loop to pay much more for that facility than a consumer who buys only narrowband service, even though the cost of that facility is fixed and does not vary in proportion to usage").

**D. Rural Study Areas Should Be Supported Based On Costs Rather Than Size**

The Joint Board should recommend elimination of the FCC rule that dramatically reduces high-cost loop support to study areas reporting more than 200,000 working loops.<sup>32</sup> Serving rural customers is infrastructure intensive. The size of the carrier serving a rural study area in no way changes the characteristics of that study area. The total number of loops in a rural study area has no impact on the costs of serving long loop lengths, sparsely populated study areas, and long backhaul distances, that are typical of rural study areas. Support to an area that is sparsely populated is no less necessary because the area covers an extensive geographic swath and therefore a large number of lines. Line density within the study area, and proximity to an urban area, are two factors that are far more relevant, in terms of predicting costs, than the number of working loops in the study area. The 200,000-loop penalty should be eliminated as part of any plan to reform rural high-cost support.

**E. Additional Considerations**

One clear path to benefit many rural consumers, while also gaining greater efficiencies and fostering broadband deployment in underserved rural areas, is to promote expenditures in newly acquired exchanges. For years, the increasingly urban-focused Bell companies have been selling large blocks of rural lines, a trend that is sure to continue, creating greater industry consolidation in rural markets. Midsize companies have demonstrated that service can be dramatically improved even while efficiencies are realized in acquired exchanges, but the FCC's rules frequently provide zero support for these exchanges until several years after

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<sup>32</sup> 47 C.F.R. § 36.631(c).



the close of the acquisition.<sup>33</sup> This is an obvious deterrent to rural investment, with no public interest justification.

There is wide consumer and industry support for the modification of the FCC's safety-valve mechanism to remove disincentives to make capital investment and network maintenance expenditures during the first year after the acquisition of an exchange.<sup>34</sup> The safety-valve mechanism is a reasonable tool for partially compensating ILECs for actual investment made in newly acquired exchanges, but fails to compensate for expenditures made in the first year following the acquisition – precisely the period when the need, and consumer expectation, for new investment is greatest. Adjusting the safety-valve mechanism to make support available in the first year is a modest, non-controversial measure that should be adopted without delay.

CenturyTel also has advocated incentive regulation for non-price cap carriers, to stabilize universal service funding, and in response to criticism of rate-of-return regulation. CenturyTel's plan includes a proposal to freeze rural high-cost support on a study area-wide basis.<sup>35</sup> This proposal would provide certainty of support necessary to develop long term capital

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<sup>33</sup> See 47 C.F.R. §54.305(a) (“[a] carrier that acquires telephone exchanges . . . shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of exchanges.”).

<sup>34</sup> See, e.g., Comments of CenturyTel, Inc., WC Docket No. 01-92, at 9 (May 23, 2005); ICF Plan at 23.

<sup>35</sup> The FCC Should Permit Rate-of-Return Carriers to Elect Price Cap Regulation for Interstate Access Charges on a Study Area Basis and Eliminate the “All or Nothing Rules,” attached to Letter from Karen Brinkmann, Counsel to CenturyTel, Inc. to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket Nos. 96-45, 98-77, 98-156, 00-256 (filed Dec. 23, 2002); *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, Federal-State Joint Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 4122, at ¶¶ 80-82 (rel. Feb. 26, 2004) (“*MAG Further Notice*”) (seeking comment on CenturyTel Incentive Plan).

plans to address the needs of rural consumers in the study area. As the carrier-of-last-resort, a rural ILEC must continue to maintain its study area-wide network, regardless of whether it loses lines. The rural ILEC therefore should continue to receive sufficient support to fulfill this obligation throughout the study area unless and until a competitor assumes the obligations of carrier-of-last-resort.

### **III. THE JOINT BOARD'S RECOMMENDATIONS SHOULD NOT PENALIZE RURAL CUSTOMERS**

Many of the proposals set forth in the Public Notice are disturbing in that their purpose appears to be solely to reduce the amount of funding provided to support telecommunications services in rural high-cost areas, without regard to what that means to consumers who rely on those services. CenturyTel has previously commented that performing radical surgery on the rural high-cost fund is ill-advised. The use of models and forward-looking costs rather than actual costs, the consolidation of costs across study areas, the reallocation of support through block grants administered by the states, and the creation of a national benchmark rate would result in less support for rural communities, and potentially devastate investment incentives in rural areas. CenturyTel notes below some of the most serious shortcomings in the proposals described in the Public Notice.

#### **A. Aggregating Study Areas Will Not Advance Service to Consumers in Rural High-Cost Areas**

Proposals to require aggregation of ILEC costs on a state-wide basis for the purpose of calculating support will do nothing to further the goals of universal service. Aggregating study area costs throughout a state effectively would increase implicit subsidies but will not reduce the actual cost of serving rural communities. Federal funding levels may decline, but the costs will remain, and it is the rural consumers who will be penalized as a result.

The Three Stage Package erroneously suggests that combining study areas would “result in the recognition of efficiencies of scale and scope actually enjoyed by each carrier.”<sup>36</sup> These efficiencies already are captured in the costs reported by each rural carrier. To the extent a carrier serves multiple study areas today, the efficiencies realized in combined facilities and shared overheads already are reflected in their reportable costs. At the same time, *prices* typically are averaged within a study area but not between study areas, so a carrier with multiple study areas within a state is likely charging different rates in its several study areas. Requiring aggregation of costs for support purposes would create a disconnect between rates and supported costs, potentially leading to the kind of implicit subsidies the FCC has been trying to eliminate.<sup>37</sup> Implicit subsidies are reduced by decreasing the size of the area over which costs are averaged, not by combining (and therefore increasing the size) of those areas.

Combining small study areas would not change the fact that many study areas have long loop lengths and long transport requirements between numerous small wire centers. These areas are high-cost whether taken on their own or combined. It is not typically possible to combine switching among such study areas without incurring substantial new transport expenses. Physical distances will not be shortened merely because costs of different study areas are averaged. As long as rural communities remain “rural,” they should continue to receive sufficient support regardless of the corporate structure of the rural carrier that serves them.

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<sup>36</sup> Public Notice at 9.

<sup>37</sup> See 47 U.S.C. § 254(e); *Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393 (5<sup>th</sup> Cir. 1999) (“We are convinced that the plain language of § 254(e) does not permit the FCC to maintain *any* implicit subsidies for universal service support.” [emphasis in original]).

**B. Universal Service Funding Should Support Actual Costs Incurred in Serving Rural Customers, Not Attempt to Estimate Future Costs**

Universal service funding is intended to compensate carriers for the costs they actually incur to provide the supported services in areas where rates would not be affordable in the absence of such support. It is thus necessary for regulators to have an accurate gauge of actual costs, rather than a prediction about what costs could be in the future. Cost models have been thoroughly considered in the past, and none has been found which could accurately predict the costs of providing telecommunications service in the rural areas throughout the country. For this reason, CenturyTel has opposed the use of models. As Chairman Martin explained in the Public Notice commencing the Joint Board's current review of the rural high-cost program:

the Commission recognized that the forward-looking economic cost model support mechanism adopted for non-rural companies may not be appropriate for rural companies . . . . I continue to believe we could better achieve sufficient universal service support and comparability of rates if we base our universal service support system on actual rather than forward looking costs.<sup>38</sup>

None of the proposals to move from actual costs to a model have given a meaningful description of the model that can be tested by rural carriers, so CenturyTel cannot support any such proposal. Forward-looking costs may be an appropriate measure of cost in some markets, but there is insufficient detail in the Public Notice to evaluate how forward-looking costs are proposed to be calculated. As the Commission's experience with UNE rates has demonstrated, a myriad of assumptions go into developing forward-looking cost estimates, and without knowing those assumptions CenturyTel cannot predict whether such a methodology would provide sufficient support or not. In contrast, actual costs will provide

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<sup>38</sup> Public Notice, *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, FCC 04J-2 (rel. Aug. 16, 2004), Statement of Commissioner Kevin J. Martin.

an adequate basis of support by definition. Therefore, CenturyTel does not believe the record is sufficient to justify these recommendations at this time.

**C. A Single National Benchmark Is Not the Appropriate Way To Ensure Affordable Rates in All Communities**

CenturyTel is concerned about suggestions to develop a uniform national rate benchmark for the purpose of denying federal support except in rural areas where rates *significantly exceed* the national average. No uniform rate benchmark could take into account the variations in affordability among rural communities across the country. Any rate benchmark must account for local factors, including penetration, household income, calling scope and other economic and demographic factors<sup>39</sup> that vary greatly throughout the United States. The USERP's proposal to set a "permanent benchmark" at 125 percent of the national average urban cost benchmark would be particularly damaging to rural consumers. Such a rate benchmark would ensure that the average rural rate would be 25 percent *higher* than the average urban rate in contravention of the Communications Act's requirement that rates be comparable in rural and urban areas.<sup>40</sup> The Joint Board should not recommend adoption of a rate benchmark that institutionalizes higher rates for rural consumers. A far more progressive change would be to recommend adjusting the current benchmark, based on average cost per loop, to reflect real cost changes that have occurred over time.<sup>41</sup>

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<sup>39</sup> See Public Notice at 5 (the SAM).

<sup>40</sup> 47 U.S.C. § 254(b)(3).

<sup>41</sup> CenturyTel has recommended that the high-cost fund should be re-based and uncapped to ensure sufficient support in rural areas. As CenturyTel and other carriers have noted, the current cap on the high-cost loop funds has resulted in substantial under-funding of carriers serving rural high-cost areas. See, e.g., Comments of CenturyTel, WC Docket No. 01-92, at 26 (Jul. 20, 2005).

#### **IV. CONCLUSION**

The Joint Board should recommend a plan such as that proposed by CenturyTel, which will ensure adequate support for rural high-cost areas and at the same time accountability in funding. The CenturyTel plan would include shoring up the base of contributors with a clear and enforceable contribution methodology, eliminating arbitraging of support by CETCs who add nothing to universal service, and providing adequate support for the entire network that serves rural consumers. Wholesale changes to universal service support framework for rural ILECs are not desirable, and would prove disastrous to rural consumers, but the selected improvements described above will further the Communications Act's mandate of preserving and advancing universal service, including advanced telecommunications and information capabilities, for all Americans.

Respectfully submitted,

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